



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/541,651

03/09/2006

Thomas Corbett

ARD128USA

3443

24339 7590 04/28/2009

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON, WI 54016

EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

04/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,651	Applicant(s) CORBETT, THOMAS	
	Examiner DAVID J. PARSLEY	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-6-09 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,837,990 to Peleg.

Referring to claim 1, Peleg discloses a polytunnel system comprising a series of leg members – at 68,70,72, or alternatively – at 56,58, a plurality of cover support members – at 2,4, and a cover – at 6, each leg member carrying a bracket – at the meeting of items 68,70,72 with items 2,4 as seen in figure 9 or alternatively – at 62, which in turn carries an associated one of

Art Unit: 3643

the cover support members – see figure 9, such that each cover support member is secured to the associated leg member by the associated bracket – see figure 9, each bracket having a movable rope anchorage point provided thereon – see at any point of the bracket which is capable of having a movable rope attached thereto as seen in figure 9, wherein each bracket is securable to the associated leg member in a range of positions so as to allow the height at which the cover support member is secured to the associated leg member by the bracket to be adjustable with the cover in situ and to simultaneously adjust the vertical position of the associated movable rope anchorage point - see figure 9.

Referring to claim 3, Peleg further discloses each bracket defines a passage through which the associated leg member extends – see proximate 68-72 in figure 9.

Referring to claim 4, Peleg further discloses the bracket defines an opening – see figure 9, and the associated leg member is provided with a series of openings – see at the ends of the legs – at 68-72 in figure 9, a fixing pin locatable within the opening of the bracket and selected one of the openings of the leg member to secure the bracket in a selected position - see figure 9.

Referring to claim 5, Peleg further discloses each bracket includes at least one arm onto or over which part of an associated cover support member can be located – see figure 9.

Referring to claim 6, Peleg further discloses each bracket includes at least one socket arranged to receive an end part of an associated cover support member - see figure 9.

Referring to claim 7, Peleg further discloses the ends of the cover support members extend generally vertically – see at 2,4 in figures 8-9.

Referring to claim 4, Peleg further discloses the bracket defines an opening and the associated leg member is provide with a series of openings – see figures 8-9, a fixing pin – see

Art Unit: 3643

figure 8, locatable within the opening of the bracket and selected one of the leg member to secure the bracket in a selected position – see figures 8-9.

Response to Arguments

3. Regarding claims 1 and 3-7, the Peleg reference US 4837990 discloses ropes as seen in figure 9 and movable anchorage points being any point on the brackets which are capable of attaching ropes. It is noted that applicant's claims do not positively recite movable ropes and further does positively recite movable ropes attached to the anchorage points. Further, the limitations of the leg members and cover support members being adjustable with the cover in situ are functional limitations in an apparatus claim and it is deemed that the device of Peleg is capable of performing these functions in that the cover sections - at 6 of Peleg are not integral with the leg members and cover support members and therefore the legs and cover supports can be moved with the cover sections - at 6 on the support members as seen in figure 9 of Peleg.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

Art Unit: 3643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/
Primary Examiner, Art Unit 3643